

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS**

RAMON TORO,)	
)	
Petitioner,)	
)	
v.)	Case No. 07-1083
)	
J.D. ZUERCHER, Warden, Pekin F.C.I.,)	
)	
Respondent.)	

**MOTION TO DISMISS PETITION
FOR WRIT OF HABEAS CORPUS**

Now comes the respondent, J.D. Zuercher, Warden, FCI-Pekin, by and through his attorneys, Rodger A. Heaton, United States Attorney for the Central District of Illinois, and Thomas A. Keith, Assistant United States Attorney, and pursuant to 28 U.S.C. § 2244(a) moves to dismiss the petition filed herein by petitioner. In support hereof, respondent states:

Procedural Background¹

The Petitioner was indicted in the Northern District of Illinois, Case No. 02-CR-07, for the following violations 1) Conspiracy to Possess with Intent to Distribute a Controlled Substance, beginning in June 2001, and continuing until December 1, 2001; 2) Attempt to Possess with Intent to Distribute a Controlled Substance on January 2, 2002, 3) Use of a Telephone in Commission of a Felony on January 2, 2002, and 4) two counts of Distribution of a Controlled Substance on August 2, 2000 and August 3, 2000. (App.1-6) Petitioner was arrested on those charges on January 2, 2002 and remained in federal custody. (App.7)

On September 9, 2003, the Petitioner was sentenced to a total of 240 months of imprisonment on all five counts. (App.8,12) Prior to his arrest on the federal charges, the Petitioner was arrested on April 5, 2001, for state charges, Battery and Resisting Arrest, by the

¹References to documents in the appendix to this motion are to "App.____".

Chicago, Illinois, police. (App. 17) On April 30, 2001, petitioner pled guilty to those state charges; and was sentenced to 25 days, time considered served. (App.17) The Petitioner, however, was not released from Cook County Department of Corrections until May 25, 2001. (App. 18) Once designated to serve his Federal sentence at the Federal Correctional Institution, Pekin, Illinois, the Petitioner's sentence computation indicated that his federal sentence commenced on July 2, 2003. (App.19) The Petitioner was given prior custody credit from the date of his federal arrest on January 2, 2002, through July 1, 2003. (App.19)

On April 9, 2007, the Petitioner filed the instant Petition for Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2241, alleging that he is entitled to credit for pre federal sentence, under Title 18 U.S.C. § 3585 (b), for time he spent in custody at the Cook County Jail in Chicago, Illinois, from April 30, 2001, until his release on May 25, 2001. (R.1,pp.10,11)

Analysis

Section 3585 (b) of Title 18, United States Code, states:

“a defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences—(1) as a result of the offense for which the sentence was imposed; or (2) as a result of any other charge for which the defendant was arrested after the commission of the offense for which the sentence was imposed; that has not been credited against another sentence.” (App. 11)

Here, the Petitioner was convicted on five (5) counts. The offenses in two (2) of the counts occurred in August 2000, prior to his arrest by the state in April 2001. It appears, from the record, the Bureau, however considered only the date of offense for the three (3) counts which concluded in 2002. (App. 8)

Review of the record confirmed the earliest date of the federal offense for which the

sentence was imposed was August, 2000, and pursuant to 18 U.S.C. § 3585 (b)(2), the Petitioner should receive credit for time in custody from May 1, 2001, through May 25, 2001. On August 15, 2007, the Bureau updated the Petitioner's sentence computation and awarded credit for this period, resulting in a projected released date of May 12, 2019. (App.29-30)

WHEREFORE, for the foregoing reasons, this Court should dismiss this § 2241 petition as moot.

Respectfully submitted,

UNITED STATES OF AMERICA

RODGER A. HEATON
UNITED STATES ATTORNEY

s:/ Thomas A. Keith
Thomas A. Keith
Assistant United States Attorney
211 Fulton Street, Suite 400
Peoria, IL 61602
Telephone: 309/671-7050

CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2007, I electronically filed the foregoing Motion to Dismiss with the Clerk of the Court using the CM/ECF system, and I hereby certify that a copy of the Motion has been made on the petitioner by depositing a copy thereof in the United States mail, postage prepaid, addressed to:

Ramon Toro
Reg. #20708-424
FCI Pekin
P.O. Box 5000
Pekin, IL 61555-5000

s/ Lisa Burnside _____
Lisa Burnside
Paralegal Specialist

APPENDIX TABLE OF CONTENTS

Superseding Indictment, Case No. 02 CR 07, 7 pages.App.1-7

Presentence Investigation Report, 1 page App.8

Individual Custody and Detention Report (USM 129), 2 pages App.9-10

Judgment in Case No. 02 CR 07, 7 pages App.10-16

Presentence Investigation Report, 1 page App.17

Cook County Department of Corrections,
Verification of Incarceration, 1 pageApp.18

Sentence Monitoring Computation Data, as of 9/4/03, 1 page App.19

Request for Administrative Remedy Appeal and Response
419359-F1, 3 pages. App.20-22

Regional Administrative Remedy Appeal and Response
419359-R1, 2 pages. App.23-24

Central Office Administrative Remedy Appeal and Response
419359-A1, 3 pages. App.25-27

Program Statement 5880.28, Sentence Computation Manual, 1 page. App.28

Sentence Monitoring Computation Data, as of 8/15/07, 2 pages App.29-30

Attachment #1

MAGISTRATE JUDGE BOBICK

411622 2002 Sept

(1) Motion by Zida
(2) Status
Sept 26
9:30

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)

vs.)

RAMON TORO, also known as)
"Junior," "J.R.," and "J")

No. 02 CR 07
Violations: Title 21, United States Code, Sections 841(a)(1), 843(b) and 846, Title 18, United States Code, Section 2

SUPERSEDING INDICTMENT

COUNT ONE

The SPECIAL MAY 2001 GRAND JURY charges:

1. Beginning in or about June 2001, and continuing until on or about December 16, 2001, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

RAMON TORO, also known as "Junior," "J.R.," and "J,"

defendant herein, conspired and agreed with Christine Williams and others known and unknown to the Grand Jury knowingly and intentionally to possess with intent to distribute and to distribute a controlled substance, namely, in excess of one kilogram of mixtures containing phencyclidine ("PCP"), a Schedule III Narcotic Drug Controlled Substance, in violation of Title 21, United States Code, Section 841(a)(1).

2. It was part of the conspiracy that defendant RAMON TORO and Christine Williams agreed that the defendant would purchase and obtain wholesale quantities of PCP from Williams for resale to others.

1.07-cv-01083-JBM # 1 Page 17 of 50

3. It was further part of the conspiracy that defendant RAMON TORO and Christine Williams typically communicated by telephone, using coded language to discuss the terms of their PCP transactions and to confirm the locations at which these transactions were to occur.

4. It was further part of the conspiracy that defendant RAMON TORO regularly purchased and obtained wholesale quantities of PCP from Christine Williams at locations in Chicago, Illinois for resale to others.

5. It was further part of the conspiracy that defendant RAMON TORO misrepresented, concealed, and hid, and caused to be misrepresented, concealed, and hidden, the purpose of and the acts done in furtherance of the conspiracy.

All in violation of Title 21, United States Code, Section 846.

COUNT TWO

The SPECIAL MAY 2001 GRAND JURY further charges:

On or about January 2, 2002, at Chicago, in the Northern District of Illinois, Eastern Division,

RAMON TORO, also known as "Junior," "J.R.," and "J,"

defendant herein, knowingly and intentionally attempted to possess with intent to distribute a controlled substance, namely, in excess of 100 grams of mixtures containing phencyclidine ("PCP"), a Schedule III Narcotic Drug Controlled Substance,

In violation of Title 21, United States Code, Section 846.

COUNT THREE

The SPECIAL MAY 2001 GRAND JURY further charges:

On or about January 2, 2002, in the Northern District of Illinois, Eastern Division,

RAMON TORO, also known as
"Junior," "J.R.," and "J,"

defendant herein, knowingly and intentionally used and caused to be used a communication facility, namely, a telephone, in committing and in causing and facilitating the commission of a felony violation of Title 21, United States Code, Section 846, namely, attempt to possess with intent to distribute a controlled substance, as charged in Count Two of this Indictment; that is, the defendant and Christine Williams discussed the defendant's purchase of in excess of 100 grams of mixtures containing phencyclidine ("PCP") from Williams;

In violation of Title 21, United States Code, Section 843(b).

COUNT FOUR

The SPECIAL MAY 2001 GRAND JURY further charges:

On or about August 2, 2000, at Chicago, in the Northern District of Illinois, Eastern Division,

RAMON TORO, aka "Junior", "J.R.", and "J",
defendant herein, knowingly and intentionally distributed a controlled substance, namely, mixtures containing phencyclidine ("PCP"), a Schedule III Narcotic Drug Controlled Substance;

In violation of Title 21, United States Code, Section 841(a)(1), and Title 18, United States Code, Section 2.

1:07-cv-01083-JBM # 1 Page 21 of 50

COUNT FIVE

The SPECIAL MAY 2001 GRAND JURY further charges:

On or about August 3, 2000, at Chicago, in the Northern District of Illinois, Eastern Division,

RAMON TORO, aka "Junior", "J.R.", and "J", defendant herein, knowingly and intentionally distributed a controlled substance, namely, mixtures containing phencyclidine ("PCP"), a Schedule III Narcotic Drug Controlled Substance;

In violation of Title 21, United States Code, Section 841(a)(1), and Title 18, United States Code, Section 2.

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY

ATTACHMENT # 2

1

TORO, Ramon
Docket No. 02 CR 7-1

1 PART A. THE OFFENSE

2 Charge(s) and Conviction(s)

3 On January 2, 2002, Ramon Toro was arrested by Federal Bureau of Investigation (FBI) special
4 agents and charged with conspiracy to possess a controlled substance, in violation of 21 U.S.C. §846.
5 On that date, a criminal complaint was filed in the Northern District of Illinois, Eastern Division,
6 charging Ramon Toro with knowingly and intentionally conspiring with others, both known and
7 unknown, to possess with intent to distribute mixtures containing Phencyclidine (commonly known
8 as "PCP"), a Schedule III Narcotic Drug Controlled Substance, and did aid and abet said conspiracy,
9 in violation of 21 U.S.C. §846. On January 2, 2002, the defendant made his initial appearance, in
10 response to his arrest, before the Honorable Edward A. Bobrick, at that time the preliminary
11 examination was set for January 7, 2002.

12 On January 7, 2002, the defendant appeared before the Honorable Edward A. Bobrick for
13 preliminary examination. On that date, the Court entered a finding of probable cause and the
14 defendant was ordered bound to the United States District Court pending further proceedings.

15 On March 28, 2002, a Special Grand Jury for the Northern District of Illinois returned a three-count
16 indictment charging the defendant with two counts of conspiring to possess with intent to distribute
17 and controlled substance (Counts One and Two), in violation of 21 U.S.C. §846, and one count of
18 use of a telephone in the commission of a felony, in violation of 21 U.S.C. §843(b).

19 Count One of the indictment specifically charges that, beginning at least as early as June 2001, and
20 continuing until on or about December 16, 2001, at Chicago, in the Northern District of Illinois,
21 Eastern Division, and elsewhere, Ramon Toro, also known as "Junior," "J.R.," and "J.," conspired
22 and agreed with Christine Williams, and others known and unknown to the Grand Jury, to possess
23 with intent to distribute and to distribute a controlled substance, namely, in excess of one kilogram
24 of mixtures containing phencyclidine ("PCP"), a Schedule III Narcotic Drug Controlled Substance,
25 in violation of 21 U.S.C. §841(a)(1).

26 It was part of the of the conspiracy that Defendant Toro and Christine Williams agreed that
27 Defendant Toro would purchase and obtain wholesale quantities of PCP from Christine Williams
28 for resale to others. Defendant Toro and Christine Williams typically communicated by telephone,
29 using coded language to discuss the terms of their PCP transactions and to confirm the locations at
30 which these transactions were to occur.

31 It was further part of the conspiracy that Defendant Toro regularly purchased and obtained wholesale
32 quantities of PCP from Christine Williams, at locations in Chicago, Illinois, for resale to others.
33 Additionally, Defendant Toro misrepresented, concealed, and hid, and caused to be misrepresented,



LIMITED OFFICIAL USE
 UNITED STATES MARSHALS SERVICE
 PRISONER TRACKING SYSTEM
 DISTRICT OF NORTHERN ILLINOIS
 DISTRICT: 24 OFFICE: CHI
 INDIVIDUAL CUSTODY AND DETENTION REPORT USM 129
 NAME: TORO, RAMON
 USMS NUMBER: 20708424

Attachment #3

I. IDENTIFICATION DATA

USMS NUMBER: 20708424	NAME: TORO, RAMON
ADDRESS: 2455 N SPRINGFIELD CHGO, IL	PHONE:
DOB: 07/24/1975	AGE: 32
SEX: M	RACE: W
HAIR: BLK	EYE: BRO
SSN: 340-72-9656	FBI NBR:
POB: XX	HEIGHT: 508
	WEIGHT: 180
	ALIEN NBR:

DETAINER DATE	ACTIVE	AGENCY	REMARK
//****	N		

PRISONER ALIAS	ALIAS REMARK
NONE	

II. CASE INFORMATION

CTR	STATUS	COURT CASE NUMBER	FEDERAL COURT CITY	JUDGE	US ATTORNEY	DEFENSE ATTORNEY
1	RL-BOP	02 CR 7	CHICAGO	GOTTSCHALL, JOAN		

CTR	ARREST DATE	ARRESTING AGENCY	ARREST LOCATION	WARRANT NUMBER
1	01/02/2002	FEDERAL BUREAU OF INVESTIGATION		

CTR	OFFENSE CODE	OFFENSE	REMARK	DISPOSITION
1	3599	DANGEROUS DRUGS		CONVICTED

CTR	SENTENCE DATE	SENTENCE	APPEAL DATE
1	07/02/2003	240 MTHS 10 MTHS SUP REL	**/**/****

III. STATUS HISTORY

CTR	STATUS	STATUS DATE	CUSTODY DATE	RELEASE DATE	REMARK
1	WT-TRIAL	01/02/2002	01/02/2002	**/**/****	
1	WT-SENT	32/19/2002	**/**/****	**/**/****	GUILTY AT TRIAL
1	WT-J/C	07/02/2003	**/**/****	**/**/****	SENT 240 MONTHS
1	WT-DESIG	08/18/2003	**/**/****	**/**/****	J/C TO MCC
1	WT-MOVE	08/27/2003	**/**/****	**/**/****	DI FCI PEKIN
1	RL-BOP	09/03/2003	**/**/****	09/03/2003	



LIMITED OFFICIAL USE
 UNITED STATES MARSHALS SERVICE
 PRISONER TRACKING SYSTEM
 DISTRICT OF NORTHERN ILLINOIS
 DISTRICT: 24 OFFICE: CHI
 INDIVIDUAL CUSTODY AND DETENTION REPORT USM 129
 NAME: TORO, RAMON
 USMS NUMBER: 20708424

IV. CHRONOLOGICAL PRISONER HISTORY

INST CODE	INSTITUTION NAME	ADMIT DATE	RELEASE DATE	DAYS BOARDED	ACTION OR DISPOSITION
CCC	MCC CHICAGO	01/02/2002	06/07/2002	156	
5QD	KENOSHA CO. JAIL WI	06/07/2002	07/31/2002	54	
CCC	MCC CHICAGO	07/31/2002	09/17/2002	48	
7WV	DODGE CO JAIL (E/WI)	09/17/2002	10/02/2002	15	
CCC	MCC CHICAGO	10/02/2002	10/16/2002	14	
7WV	DODGE CO JAIL (E/WI)	10/16/2002	12/03/2002	48	
CCC	MCC CHICAGO	12/03/2002	01/08/2003	36	
5QD	KENOSHA CO. JAIL WI	01/08/2003	04/01/2003	83	
CCC	MCC CHICAGO	04/01/2003	09/03/2003	155	
TOTAL DAYS BOARDED				609	

V. MEDICAL CONDITION/TREATMENT HISTORY

DATE SERVICE PROVIDED	VENDOR	SERVICE PROVIDED
//****		

ATTACHMENT # 4

UNITED STATES DISTRICT COURT

NORTHERN

District of

ILLINOIS, EASTERN DIVISION

UNITED STATES OF AMERICA
V.

RAMON TORO

Date of Original Judgment: 7/2/03
(Or Date of Last Amended Judgment)

AMENDED JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

Case Number: 02 CR 7

NISHAY KUMAR SANAN

Defendant's Attorney

Reason for Amendment:

- Correction of Sentence on Remand (Fed. R. Crim. P. 35(a))
- Reduction of Sentence for Changed Circumstances (Fed. R. Crim. P. 35(b))
- Correction of Sentence by Sentencing Court (Fed. R. Crim. P. 35(b))
- Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36)

- Modification of Supervision Conditions (18 U.S.C. §§ 3563(e) or 3583(e))
- Modification of Imposed Term of Imprisonment for Extraordinary and Compelling Reasons (18 U.S.C. § 3582(c)(1))
- Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3582(c)(2))
- Direct Motion to District Court Pursuant to 28 U.S.C. § 2255 or 18 U.S.C. § 3559(e)(7)
- Modification of Restitution Order (18 U.S.C. § 3664)

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following offense(s):

THE DEFENDANT:

- pleaded guilty to count(s) _____
- pleaded nolo contendere to count(s) _____ which was accepted by the court.
- was found guilty on count(s) S1, S2, S3, S4 AND S5 after a plea of not guilty.

DOCKETED
SEP 18 2003

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21 U.S.C. §§846 and 851	Conspiracy to Possess with Intent to Distribute a Controlled Substance	1/2002	One
21 U.S.C. §§846 and 851	Conspiracy to Possess with Intent to Distribute a Controlled Substance	1/2002	Two

The defendant is sentenced as provided in page 2 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984. 3

- The defendant has been found not guilty on count(s) _____
- Count(s) _____ is are dismissed on the motion of the United States.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Defendant's Soc. Sec. No.: 340-72-9656

Defendant's Date of Birth: July 24, 1975

Defendant's USM No.: 20708-424

Defendant's Residence Address: Kenosha County Jail

1000 55th Street

Kenosha, Wisconsin 53140

Defendant's Mailing Address: Same as above

September 9, 2003

Date of Imposition of Judgment

Joan B. Gottschall
Signature of Judicial Officer

Joan B. Gottschall - District Court Judge

Name and Title of Judicial Officer

SEP 16 2003

Date

76

AO 245C (Rev. 3/01) Amended Judgment in a Criminal Case
Sheet 1A

(NOTE: Identify Changes with Asterisks)

DEFENDANT: RAMON TORO
CASE NUMBER: 02 CR 7

Judgment -- Page 2 of 3

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
21 U.S.C. §§843(b) and 851	Use of a Telephone in the Commission of a Felony	1/2002	Three
21 U.S.C. §§841(a)(1) and 851	Possession with Intent to Distribute a Controlled Substance	1/2002	Four and Five

AO 245C (Rev. 3/01) Amended Judgment in a Criminal Case
Sheet 2 -- Imprisonment

(NOTE: Identify Changes with Asterisks)

DEFENDANT: RAMON TORO
CASE NUMBER: 02 CR 7

Judgment — Page 3 of 3

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 240 months, on Counts One

- The court makes the following recommendations to the Bureau of Prisons:
 THAT DEFENDANT BE DESIGNATED TO FCI, PEKIN OR MILAN.
 * THAT DEFENDANT PARTICIPATE IN THE COMPREHENSIVE DRUG TREATMENT PROGRAM DURING HIS TERM OF IMPRISONMENT.
- The defendant is remanded to the custody of the United States Marshal.
- The defendant shall surrender to the United States Marshal for this district:
 - at _____ a.m. p.m. on _____
 - as notified by the United States Marshal.
- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
 - before 2 p.m. on _____
 - as notified by the United States Marshal.
 - as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____ with a certified copy of this judgment.

UNITED STATES MARSHAL
By _____
DEPUTY UNITED STATES MARSHAL

UNITED STATES DISTRICT COURT

NORTHERN

District of

ILLINOIS, EASTERN DIVISION

UNITED STATES OF AMERICA

V.

RAMON TORO

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: 02 CR 7

NISHAY KUMAR SANAN

Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) _____
- pleaded nolo contendere to count(s) _____
which was accepted by the court.
- was found guilty on count(s) S1, S2, S3, S4 and S5
after a plea of not guilty.

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21 U.S.C. §§846 and 851	Conspiracy to Possess with Intent to Distribute a Controlled Substance	1/2002	One
21 U.S.C. §§846 and 851	Conspiracy to Possess with Intent to Distribute a Controlled Substance	1/2002	Two
21 U.S.C. §§843(b) and 851	Use of a Telephone in the Commission of a Felony	1/2002	Three

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____
- Count(s) _____ is are dismissed on the motion of the United States.

IT IS ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

JULY 2, 2003
Date of Imposition of Judgment


Signature of Judicial Officer

Joan B. Gottschall - District Court Judge
Name and Title of Judicial Officer

July 8, 2003
Date

AO 245B (Rev. 3/01) Judgment in a Criminal Case
Sheet 1A Case 1:02-cr-00007 Document 76 Filed 09/09/2003 Page 5 of 11

DEFENDANT: RAMON TORO
CASE NUMBER: 02 CR 7

Judgment—Page 2 of 8

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
21 U.S.C. §§841(a)(1) and 851	Possession with Intent to Distribute a Controlled Substance	1/2002	Four and Five

DEFENDANT: RAMON TORO
CASE NUMBER: 02 CR 7

Judgment -- Page 3 of 8

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 240 months, on Counts One,

continue to page four for additional imprisonment terms

The court makes the following recommendations to the Bureau of Prisons:
THAT DEFENDANT BE DESIGNATED TO FCI, PEKIN OR FCI MILAN.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

AO 245B

(Rev. 3/01) Judgment in a Criminal Case
Sheet 2A - Imprisonment

CASE 1:07-cr-00007

Document 76

Filed 09/09/2003

Page 7 of 11

DEFENDANT: RAMON TORO
CASE NUMBER: 02 CR 7

Judgment—Page 4 of 8

ADDITIONAL IMPRISONMENT TERMS

Two, Four and Five and 96 months, on Count Three, all counts to run concurrently.

IT IS HEREBY FURTHER ORDERED THAT COSTS OF IMPRISONMENT ARE WAIVED.

ATTACHMENT # 5

TORO, Ramon
Docket No. 02 CR 7-1

584 Additional bottles of the liquid substances were observed near said sock. The defendant was charged
 585 with possession of a controlled substance (Count One), failure to display a front license plate (Count
 586 Two), no driver's license (Count Three), no automobile insurance (Count Four), and failure to wear
 587 a seat belt (Count Five). On September 2, 1999, the case was transferred to the criminal division.

588 On September 8, 1999, a two-count indictment was filed in the Circuit Court of Cook County,
 589 Illinois, charging the defendant with manufacturing/delivering a controlled substance (Count One)
 590 and possession with intent to deliver a controlled substance (Count Two). On February 24, 2000,
 591 the Court entered a finding of not guilty to Count 1 of the indictment. The defendant was
 592 represented by legal counsel in this case.

593 According to the information supplied by the Illinois Department of Corrections, the defendant was
 594 paroled on April 28, 2000. However, after committing the subsequent offense of possession of a
 595 controlled substance, on August 2, 2000 and August 3, 2000, which later became Counts Four and
 596 Five of the instant federal offense, the defendant was returned, on August 16, 2000, to custody of
 597 the Illinois Department of corrections. The above-referenced case was discharged on December 22,
 598 2000.

599	4/5/01	Ct. 2: Battery;	4/30/01: Pled	4A1.1(c)	1
600	(Age: 25)	Ct. 3: Resisting Arrest, Circuit Court of Cook County, Illinois (Docket No. 01-1-185355-01)	Guilty/Found Guilty, Sentenced to 25 Days Jail, Time Considered Served		

601 The above information was obtained from the Circuit Court of Cook County, Illinois Clerk's
 602 Information System and court documents. According to the arrest report, officers with the Chicago,
 603 Illinois Police Department, upon responding to a call of domestic violence, placed the defendant
 604 under arrest after the victim signed a criminal complaint. Arresting officers observed scratches and
 605 bruises on the victim's arm, purportedly caused by the defendant. At the time of arrest, officers
 606 learned that there was an active warrant for the defendant's arrest, based on a charge of criminal drug
 607 conspiracy, issued in the Circuit Court of Cook County, Illinois, Docket Number 01-1-119048-01.
 608 The defendant was subsequently placed under arrest and transported to a police station. While
 609 officers were attempted to assist the defendant out of the police vehicle, once they arrived at the
 610 police station, the defendant kicked one of the arresting officers in the leg, pushing the officer into
 611 a parked vehicle. Arresting officers then used minimal force to control the defendant who, according
 612 to the officers' account, was resisting a peace officer.

613 The defendant was subsequently charged with domestic battery (Count One), battery (Count Two),
 614 and resisting a peace officer (Count Three). This case appeared in Court on April 18, 2001, at which

ATTACHMENT # 6

COOK COUNTY DEPARTMENT OF CORRECTIONS

Michael F. Sheahan
Sheriff



2700 South California
Chicago, Illinois 60608

Verification of Incarceration

CCDOC # 01-0027282

Date: 4-3-06

RE: TORO, Ramon

ALIAS: _____

DOB: 7-24-75

SSN # _____

IR # 1095451

To whom it may concern:

Pursuant to your request the following information is submitted:

Date Entered: 4-6-01

How Released: BOND

Date Released: 5-25-01

Court: CRIMINAL

Case / Indictment #: W 01CR05852 -13

Charge: CHRG CHAIN DRUG CONTR
DE IN BATT/BIA

Electronic Monitoring / Day Reporting

From: _____ To: _____

From: _____ To: _____

From: _____ To: _____

Office of Old Records
M. Rago Supervisor
773-843-6150

Completed By: [Signature]

ATTACHMENT # 7

1:07-cv-01083-JBM # 1 Page 28 of 50

PKKCD 540*23 *
PAGE 002 OF 002 *

SENTENCE MONITORING
COMPUTATION DATA
AS OF 09-04-2003

* 09-04-2003
* 12:01:26

REGNO...: 20708-424 NAME: TORO, RAMON

-----CURRENT COMPUTATION NO: 010 -----

COMPUTATION 010 WAS LAST UPDATED ON 09-04-2003 AT PKK AUTOMATICALLY

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 07-02-2003
TOTAL TERM IN EFFECT.....: 240 MONTHS
TOTAL TERM IN EFFECT CONVERTED...: 20 YEARS
EARLIEST DATE OF OFFENSE.....: 01-01-2002

JAIL CREDIT.....: FROM DATE THRU DATE
01-02-2002 07-01-2003

TOTAL PRIOR CREDIT TIME.....: 546
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED...: 940
TOTAL GCT EARNED.....: 54
STATUTORY RELEASE DATE PROJECTED: 06-06-2019
SIX MONTH /10% DATE.....: 12-06-2018
EXPIRATION FULL TERM DATE.....: 01-01-2022

PROJECTED SATISFACTION DATE.....: 06-06-2019
PROJECTED SATISFACTION METHOD....: GCT REL

G0000 TRANSACTION SUCCESSFULLY COMPLETED

Attachment #8

1:07-cv-01083-JBM # 1 Page 40 of 50
U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: Toro, Ramon 20708-424 Illinois 1 FCI Pekin
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A- INMATE REQUEST

On June 12, 2006, I filed a BP-8 Request for Administrative Remedy. In the BP-8 I sought a new "Sentencing Monitoring Computation Data Sheet" to reflect jail credit of an additional forty-nine (49) days that I previously served between April 6, 2001 to May 25, 2001, in Cook County, Illinois. The BP-8 response denied my request and stated that this jail credit was not related to my federal charge and was prior to the date of my federal offense. For the following reasons I again request credit for these forty-nine (49) days. First, this jail credit was for an Illinois State case of criminal drug conspiracy. See attachment "B", BP-8. As the transcripts reveal, this case was dropped by Illinois because I had been indicted on the identical charge in federal court. Thus, contrary to the BP-8 response, the jail credit was entirely related to my federal instant offense. Second, although the jail credit was prior to the date of my federal indictment, it was not prior to my federal instant offense. The same conduct for which I was charged in State Court was the basis for my federal offense. Whether I served this time before my federal indictment was issued is irrelevant to the question of whether I should receive this jail credit. Lastly, the BP-8 response has the appearance that my

7-02-06
DATE

Ramon Toro 20708-424
SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE _____ WARDEN OR REGIONAL DIRECTOR _____
If classified with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

Part C- RECEIPT

CASE NUMBER: 49359-F1

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE _____
RECIPIENT'S SIGNATURE (STAFF MEMBER)

1:07-cv-01083-JBM # 1 Page 41 of 50

CONTINUATION

See Attachment "A". Report of Proceedings. Nevertheless, I served 49 days in county jail on the state charge which should be credited towards my federal sentence. See Attachment "B", Verification of Incarceration on Case No.: WD1CR05852-13. Since the Illinois State and the Federal cases were essentially the same I should receive 49 days jail credit.

Ramon Toro


Ramon Toro
Reg. No.: 20708-424
Federal Correctional Institution
P. O. Box 5000
Pekin, IL., 61555-5000

Part B - Response
Administrative Remedy #419359-F1

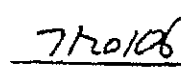
This is in response to your Request for Administrative Remedy in which you allege your current sentence computation is incorrect. You request that you receive jail credit from April 8, 2001 through May 25, 2001.

An investigation into this matter revealed that you were arrested for Battery, Resisting Arrest and an active warrant for drug charges out of the Circuit Court of Cook County on April 6, 2001. You were then transported to the Cook County Jail and held until May 25, 2001, at which time you were released on bond for the drug charges. For the Battery and Resisting Arrest charges, you were sentenced on April 30, 2001 to 25 days time served. This arrest was prior to the date of federal offense and per the United States Probation Officer was not related to the federal offense. Based on this information you are not entitled to this jail credit pursuant to 18:3585(b) "Credit for prior custody a defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences (1) as a result of the offense for which the sentence was imposed; or (2) as a result of any other charge for which the defendant was arrested after the commission of the offense for which the sentence was imposed; that has not been credited against another sentence."

Based on the above, your request for relief is denied. If you are not satisfied with this response, you may appeal on the appropriate form to the Regional Director within twenty days of the date of this response.



R. V. Veach, Warden



Date

ATTACHMENT # 9

1:07-cv-01083-JBM # 1 Page 44 of 50
U.S. Department of Justice
Federal Bureau of Prisons

Regional Administrative Remedy Appeal

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-DIR-9 including any attachments must be submitted with this appeal.

From: Toro, Ramon 20708-424 Illinois 1 FCI Pekin
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A—REASON FOR APPEAL

On July 20, 2006, the Warden denied my BP-9 request. The BP-9 request was for a new "Sentencing Monitoring Computation Data Sheet" to reflect an additional forty-nine, (49) days of jail credit that I served in Cook County, Illinois. The warden denied the request because he believed this credit for jail time was related to a different state case instead of my instant federal case. However, the documents I submitted in support clearly show that the time I served in Cook County was for drug conspiracy - which was subsequently dropped because I was federally indicted for the same offense. Therefore, under 18 U.S.C. § 3585(b) I should receive forty-nine (49) days for the time I served in Cook County on the charge of drug conspiracy.

DATE _____ SIGNATURE OF REQUESTER _____
Part B—RESPONSE

DATE _____ REGIONAL DIRECTOR _____
If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

Part C—RECEIPT

CASE NUMBER: _____

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

1:07-cv-01083-JBM # 1 Page 45 of 50

U.S. Department of Justice
Federal Bureau of Prisons
North Central Regional Office

Regional Administrative Remedy Appeal
Part B - Response

Admin Remedy Number: 419359-R1

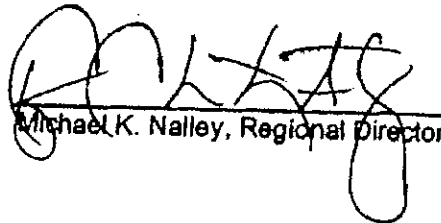
This is in response to your Regional Administrative Remedy Appeal dated August 2, 2006, wherein you claim you did not receive 49 days jail credit for time spent in the Cook County Jail from April 6, 2001, through May 25, 2001. For relief, you request that credit be awarded.

We have reviewed your appeal and relevant documentation. We find that the jail credit you have requested is inapplicable for award. The dates you request credit for were prior to the date of your federal offense. In addition, the United States Probation Officer verified with institution staff that the charges for which you spent time in the Cook County Jail are not related to your federal offense.

Based on the above information, your Regional Administrative Remedy Appeal is denied.

If you are dissatisfied with this response, you may appeal to the Office of General Counsel, Federal Bureau of Prisons, 320 First Street, NW, Washington, D.C. 20534. Your appeal must be received in the Office of General Counsel within 30 days from the date of this response.

9/6/06
Date


Michael K. Nalley, Regional Director

ATTACHMENT # 10

1:07-cv-01083-JBM # 1 Page 48 of 50

U.S. Department of Justice
Federal Bureau of Prisons

Central Office Administrative Remedy Appeal

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-DIR-9 and BP-DIR-10, including any attachments must be submitted with this appeal.

From: Toro, Ramon 20708-424 Illinois 1 FCI Pekin
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL On September 6, 2006, my Regional Administrative Remedy Appeal (BP-10) was denied. However, I did not receive the denial here at FCI Pekin until September 19, 2006. In this BP-11 I am requesting jail credit of twenty-five (25) days for time served between April 30, 2001, through May 25, 2001, in Cook County jail. I also request that a new Sentencing Data Computation Sheet reflect a credit of twenty-five (25) days.

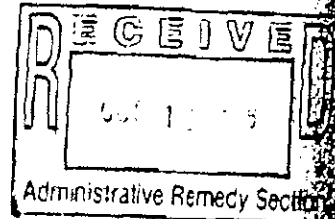
On April 6, 2001, I was arrested in Cook County, Illinois, on the charges of Battery, Resisting Arrest and on a warrant for a drug conspiracy. I was transported to the Cook County jail where I was held until May 25, 2001, at which time I was released on bond. For the Battery and Resisting Arrest charges I was sentenced on April 30, 2001, to 25 days time served. See Verification of Incarceration and Sentencing Calculation Sheet from the Cook County Department of Corrections, attached on my BP-8. The time served between April 30, 2001 to May 25, 2001, was not credited against another sentence.

On December 2, 2002, I appeared before the Circuit Court of Cook County, on the state drug conspiracy charge. At that time it was noted that I had been indicted on a federal conspiracy charge. In light of the federal conspiracy

10-04-06
DATE

Ramon Toro
SIGNATURE OF REQUESTER

Part B - RESPONSE



DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 419359-A1

Part C - RECEIPT

CASE NUMBER: _____

Return to:

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT: _____

DATE

BP-11
(Continuation)
Toro, Ramon
Reg. No. 20708-424

indictment, the State dismissed their drug conspiracy charge against me.

Under Title 18, United States Code, Section 3585(b), I am entitled to the twenty-five (25) days. First, the twenty-five (25) days served was a result of the offense for which I was sentenced in federal court. Both the state and federal drug conspiracy charges arose from the same conduct. See § 3585(b)(1). Second, the time served between April 30, 2001 through May 25, 2001, occurred after the commission of my federal offense and that time was never credited against another sentence. See § 3585(b)(2). Therefore, there is no dispute that the twenty-five (25) days I seek qualify for credit. See generally, Kaylez v. Gasole, 993 F.2d 1288, 1289 (7th Cir. 1993).

10-04-06
Date

Ramon Toro
Signature of Requester

1:07-cv-01083-JBM # 1 Page 50 of 50


Administrative Remedy No. 419359-A1
Part B - Response

This is in response to your Central Office Administrative Remedy Appeal in which you contend that your federal sentence should reflect additional prior custody credit, specifically, from April 30, 2001, through May 25, 2001.

You provide no new information in this matter beyond that which you supplied in your Request for Administrative Remedy at the Institution and Regional Office levels. A review of your record indicates you committed your federal offenses between June of 2001 and January 2, 2002. Federal statute precludes the application of prior custody credit for time spent in custody prior to the commission of the federal offense based on unrelated charges. Your federal sentence has been computed as directed by federal statute, case law and Bureau of Prisons Program Statement 5880.28, Sentence Computation Manual (CCCA of 1984).

Your appeal is denied.

November 8, 2006
Date



Harrell Watts, Administrator
National Inmate Appeals

Attachment # 11

PS 5880.28
(CN-03) February 14, 1997
Page 1 - 14

* c. **Prior Custody Time Credit.** The SRA includes a new statutory provision, 18 U.S.C. § 3585(b), that pertains to "credit for prior custody" and is controlling for making time credit determinations for sentences imposed under the SRA. Title 18 U.S.C. § 3568, repealed effective November 1, 1987, as implemented by the "Old Law" Sentence Computation Manual, remains the controlling statute for all sentences imposed for offenses that occurred on or after September 20, 1966 up to November 1, 1987.

* Statutory Authority: Prior custody time credit is controlled by 18 U.S.C. § 3585(b), and states, "A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences--

(1) as a result of the offense for which the sentence was imposed; or

(2) as a result of any other charge for which the defendant was arrested after the commission of the offense for which the sentence was imposed;

that has not been credited against another sentence."

Definitions:

* **Raw EFT:** The Raw EFT for both a federal and non-federal sentence is determined by adding the total length of the sentence to be served to the beginning date of the sentence resulting in a full term date of sentence (**Raw EFT**) that does not include any time credit, e.g., presentence or prior custody time or good time. (Inoperative time that may affect either the state or federal **Raw EFT** shall be referred to the RISA for assistance.)

ATTACHMENT #12

DSC66 540*23 * SENTENCE MONITORING * 08-15-2007
PAGE 001 * COMPUTATION DATA * 12:20:29
AS OF 08-15-2007

REGNO.: 20708-424 NAME: TORO, RAMON

FBI NO.: 296923XA8 DATE OF BIRTH: 07-24-1975
ARS1: PEK/A-DES
UNIT: ILLINOIS QUARTERS: A01-135L
DETAINERS: NO NOTIFICATIONS: NO

PRE-RELEASE PREPARATION DATE: 11-12-2018

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.
THE INMATE IS PROJECTED FOR RELEASE: 05-12-2019 VIA GCT REL

-----CURRENT JUDGMENT/WARRANT NO: 010 -----

COURT OF JURISDICTION: ILLINOIS, NORTHERN DISTRICT
DOCKET NUMBER: 02 CR 7
JUDGE: GOTTSCHALL
DATE SENTENCED/PROBATION IMPOSED: 07-02-2003
DATE COMMITTED: 09-03-2003
HOW COMMITTED: US DISTRICT COURT COMMITMENT
PROBATION IMPOSED: NO

NON-COMMITTED: FELONY ASSESS MISDMNR ASSESS FINES COSTS
\$500.00 \$00.00 \$00.00 \$00.00
RESTITUTION: PROPERTY: NO SERVICES: NO AMOUNT: \$00.00

-----CURRENT OBLIGATION NO: 010 -----

OFFENSE CODE: 391
OFF/CHG: 21:846/851/843 CONSPIRACY TO PWITD CONTROLLED SUB & USE OF
A TELEPHONE IN COMMISSION OF A FELONY/CTS 1-5 ALL C/C

SENTENCE PROCEDURE: 3559 PLRA SENTENCE
SENTENCE IMPOSED/TIME TO SERVE: 240 MONTHS
TERM OF SUPERVISION: 10 YEARS
DATE OF OFFENSE: 08-02-2000

G0002 MORE PAGES TO FOLLOW . . .

DSC66 540*23 *
PAGE 002 OF 002 *

SENTENCE MONITORING
COMPUTATION DATA
AS OF 08-15-2007

* 08-15-2007
* 12:20:29

REGNO...: 20708-424 NAME: TORO, RAMON

-----CURRENT COMPUTATION NO: 010 -----

COMPUTATION 010 WAS LAST UPDATED ON 08-15-2007 AT DSC AUTOMATICALLY
COMPUTATION CERTIFIED ON 08-15-2007 BY DESIG/SENTENCE COMPUTATION CTR

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 07-02-2003
TOTAL TERM IN EFFECT.....: 240 MONTHS
TOTAL TERM IN EFFECT CONVERTED...: 20 YEARS
EARLIEST DATE OF OFFENSE.....: 08-02-2000

JAIL CREDIT.....: FROM DATE THRU DATE
05-01-2001 05-25-2001
01-02-2002 07-01-2003

TOTAL PRIOR CREDIT TIME.....: 571
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED...: 940
TOTAL GCT EARNED.....: 270
STATUTORY RELEASE DATE PROJECTED: 05-12-2019
SIX MONTH /10% DATE.....: N/A
EXPIRATION FULL TERM DATE.....: 12-07-2021

PROJECTED SATISFACTION DATE.....: 05-12-2019
PROJECTED SATISFACTION METHOD...: GCT REL

REMARKS.....: 8/15/07 COMP UPDATED BY DSCC TO AWARD ADDITIONAL B2 JAIL TIME
CREDIT. DATE OF OFFENSE CHANGED TO 8-2-00.

G0000 TRANSACTION SUCCESSFULLY COMPLETED